

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON and CABELL COUNTY COMMISSION,) CIVIL ACTION NO. 3:17-01362
)
Plaintiffs,)
)
vs.)
)
AMERISOURCEBERGEN DRUG CORPORATION, et al.,) DISCOUNT EMPORIUM, INC. d/b/a DRUG EMPORIUM'S OBJECTIONS AND RESPONSES TO SUBPOENA BY PLAINTIFFS
)
Defendants.)
)
)

Pursuant to Federal Rule of Civil Procedure 45(a)(4), Discount Emporium, Inc. d/b/a Drug Emporium (“Discount Emporium”) responds and objects as follows to the subpoena (“Subpoena”) by Plaintiffs the City of Huntington and Cabell County Commission (“Plaintiffs”) dated April 3, 2020:

GENERAL STATEMENT

Discount Emporium reserves the right to change the responses herein and/or produce subsequently discovered documents. The responses herein are made in a good-faith effort to comply with the provisions of Federal Rule of Civil Procedure 45, and to supply such responsive information as exists and is presently within Discount Emporium’ possession, custody, or control.

An answer to a document request in the Subpoena shall not be deemed a waiver of any applicable general or specific objection to the document request. Discount Emporium’s responses to this Subpoena do not constitute admissions relative to the existence of any documents or information, to the relevance or admissibility of any documents or information, or to the truth or accuracy of any statement or characterization contained in Plaintiffs’ requests.

Discount Emporium expressly incorporates this General Statement and the following General Objections as though set forth fully in response to each of the following individual requests, and, to the extent that they are not otherwise raised in any particular response, Discount Emporium does not waive those objections.

GENERAL OBJECTIONS

1. Discount Emporium objects to the Subpoena to the extent it seeks documents or information protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege or protection from disclosure. The inadvertent disclosure of any information or document that is privileged or otherwise protected from disclosure will not waive such privilege, protection, or privacy right.

2. Discount Emporium objects to the Subpoena to the extent it purports to impose any obligations beyond those set forth in the Federal Rules of Civil Procedure.

3. Discount Emporium objects to the Subpoena to the extent it seeks discovery beyond the limits of or different from that permitted by the Federal Rules of Civil Procedure.

4. To the extent any term is undefined, Discount Emporium will apply the ordinary meaning of the word.

5. Discount Emporium objects to the Subpoena to the extent that it is so vague, ambiguous, or confusing as not to be susceptible to a reasoned interpretation or response.

6. Discount Emporium objects to the Subpoena to the extent it fails to identify the information sought with reasonable particularity.

7. Discount Emporium objects to the Subpoena to the extent it is overly broad, overly expansive, oppressive, or unduly burdensome and would thus impose upon Discount Emporium an unreasonable burden of inquiry or unreasonable costs.

8. Discount Emporium objects to the Subpoena to the extent it contains legal conclusions or characterizes certain information, allegations, or ideas as an undisputed fact.

9. Discount Emporium objects to every request in the Subpoena that is duplicative of other requests in the Subpoena.

10. Discount Emporium objects to the Subpoena to the extent it seeks information that is neither relevant to any claim or defense in this litigation nor proportional to the needs of the case. Discount Emporium' decision to provide any document requested, notwithstanding the objectionable nature of any document request, is not a concession that the produced information is relevant, material or admissible in these or any other proceedings.

11. Discount Emporium objects to the Subpoena to the extent it requires the disclosure of trade secrets or confidential or proprietary information or documents.

12. Discount Emporium objects to the Subpoena to the extent it requires Discount Emporium to provide documents that are not in its possession, custody, or control.

13. Discount Emporium objects to any form of production of electronically stored information that imposes obligations beyond those required by the Federal Rules of Civil Procedure.

14. All responses and forthcoming productions of documents are made subject to these objections and are based solely on the information known to Discount Emporium at the time these responses are served. Discount Emporium reserves the right to revise, supplement, or clarify any objection, response, or production at any time.

15. Discount Emporium reserves the right to object to further discovery into the subject matter of the Subpoena.

16. Each of the foregoing General Objections is incorporated into each and every specific response set forth below. Notwithstanding the specific response to any request, Discount Emporium does not waive any of its General Objections. Discount Emporium may repeat a General Objection below for emphasis or for some other reason, and the failure to repeat a General Objection shall not be construed as a waiver of any General Objection to the Subpoena.

RESPONSE TO REQUEST FOR DOCUMENTS

REQUEST NO. 1:

Please produce transactional data for each pharmacy you operate in the City Huntington (WV) and/or Cabell County (WV) sufficient to determine:

- a. the volume of hydrocodone, oxycodone and/or fentanyl prescriptions written by each prescriber as well as the brand name, dose, frequency and duration;
- b. the ratio of controlled substance prescriptions to non-controlled prescriptions dispensed;
- c. the ratio of controlled substance prescriptions paid for cash to those paid by a third-party payor; and
- d. communications with wholesale distributors regarding the purchase of prescription opioids regarding due diligence.

RESPONSE TO REQUEST NO. 1:

In addition to its General Objections, Discount Emporium objects to this request as overly broad, overly expansive, unduly burdensome, and not proportional to the needs of this case, as the request seeks documents for time period of nearly twenty five (25) years and would require Discount Emporium to expend significant amounts of time and money to locate, review, and prepare for production in proper form a large number of archived and stored paper documents.

Discount Emporium also objects to this request to the extent that it seeks materials that are protected by the attorney-client privilege and/or the attorney work-product doctrine.

Subject to the foregoing objections, see Discount Emporium's Document Production.

FOX ROTHSCHILD LLP



Dated: May 15, 2020

By: _____

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served upon the following counsel of record via first class mail:

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Dated: May 15, 2020 By: _____
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